

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD

November 29 – December 3, 2004

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
11-29	EX	76143855	The Board of Trustees of the University of Alabama and Auburn University	Hanak Bottorff Holtzman*	whether the mark applicant seeks to register is a substantially exact representation of the mark shown on its specimens of use	Refusal Affirmed in both classes		"IRON BOWL" (and design) [<i>in Class 25</i> : clothing, namely, t-shirts; <i>in Class 41</i> : entertainment services, namely, arranging and conducting athletic events]		Weimer	No
11-29	EX (R)	76221529	Casino Data Systems	Quinn Hohein* Bucher	2(d)	Request for Reconsideration Denied (Refusal Affirmed)		"BIG SHOT" [gaming devices, namely, gaming machines and computer game software therefor]	"BIG SHOT 21" [apparatus for playing casino card games featuring a progressive jackpot, said apparatus comprising a modified card table, computer, computer monitors and displays, and associated computer software]	Stoides	No
11-29	OPP (R)	91113921	Citicorp v. Morley Companies, Inc.	Simms Hohein* Chapman	2(d)	Request for Reconsideration Denied (Opposition Sustained)	"CHOICE" [credit card services]	"CHOICES UNLIMITED" [debit card services]			No

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(2) *=Opinion Writer; (D)=Dissenting Panel Member

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11-30	EX (R)	76155361	Casino Data Systems	Hanak* Walters Chapman	2(e)(1)	Request for Reconsideration Denied (Refusal Affirmed)		"DOUBLE ACEY DEUCEY" [gaming machines and computer software therefor]		Micheli	No
11-30	CANC (SJ)	92042511	Tanning Research Laboratories, Inc. v. Johnson & Johnson Corp.	Simms Seeherman Walters [Opinion "By the Board" (Zervas)]	abandonment	Petition to Cancel Granted (petitioner's motion for summary judgment as to standing granted) [Note: in a decision of 8-27-04, the TTAB held petitioner entitled to summary judgment on abandonment but required petitioner to prove its standing]	"SUNDOWN" [preparations for application to the skin for purposes of moisturizing, tanning or screening from the sun]	two registrations of the mark "SUNDOWN" [suntan lotion and sunscreen] and [after-sun skin moisturizers and gels]			No

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11-30	OPP OPP	91119974 91120597	The Bear Partnership and Wings Research and Development, S.r.L v. Bear U.S.A., Inc.	Simms Walters Drost*	2(d) [priority]	Opposition Dismissed in both cases and as to all classes	"BEAR SURF BOARDS" (and design) [in Class 16: posters, stickers, and decals; in Class 24: beach towels; in Class 25: pants, pantsuits, shirts, skirts, slacks, sweatsuits, sweaters, t-shirts, tank tops, blouses, jackets, trousers, pull over shirts, vests, jumpers, coveralls, cardigans, dresses, rompers, jumpsuits, leggings]	"BEAR" [in Class 18: all purpose athletic sport and duffel bags; in Class 25: clothing, namely, parkas, jackets, shirts, hats, headbands and footwear] and "BEAR" (and design) [in Class 25: clothing, namely, parkas, jackets, t-shirts, technical pants, underwear, cold weather hats, headbands, footwear (excluding golf shoes), and denim products, namely, jeans, shorts, shirts, jackets, and hats]			No
11-30	OPP (R)	91121069	Bonne Bell, Inc. v. Smack, Inc.	Hanak* Hairston Walters	2(d) [whether opposer properly made of record any evidence in support of its case]	Request for Reconsideration Denied (Opposition Dismissed)	"SMACKERS" [cologne and other goods]	"SMACK" [cologne, etc.]			No

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12-1	EX	76296698	Midland Mortgage Co.	Simms* Quinn Drost	2(d)	Refusal Affirmed as to both cited registrations		"MIDLAND MORTGAGE" [financial services, namely, mortgage origination and servicing of loans for others]	2 cited registrations, both owned by the same entity: "MIDLAND COMMERCIAL FUNDING" [financial services, namely, commercial mortgage loan program that originates, purchases and aggregates mortgage loans secured by commercial and multi-family real estate for sale in securitizations using capital markets] and "MIDLAND LOAN SERVICES" [financial services, namely, servicing mortgage loans secured by commercial and multi-family real estate; originating, purchasing, and securitizing mortgage loans; and asset management for portfolios of commercial and multi-family real estate owned by third parties, namely, etc.]	Carty	No

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12-2	EX	78163512	Fischbein-Inglett Co.	Simms* Seeherman Bottorff	2(e)(1)	Refusal Affirmed		"EZ WEIGH" [net-weigh scales for weighing bags of dry products]		Oh	No
12-2	EX	76429068	Lincoln Global, Inc.	Walters Chapman* Bottorff	whether applicant's mark has acquired distinctiveness under Sec. 2(f); whether applicant has complied with the request for information under Rule 2.61(b)	Refusal Affirmed in all three classes for lack of evidence of 2(f) distinctiveness; refusal based on failure to comply with Rule 2.61(b) reversed		"ARCWELD" [in Class 1: welding consumables, namely, welding fluxes; in Class 6: welding consumables, namely, welding wire and welding rods; in Class 9: electric arc welders, wire feeders, and welding electrodes]		Pino	No
12-2	EX	78173032	Premiera Blue Cross	Hanak* Hohein Holtzman	2(d)	Refusal Affirmed		"MYPHARMACYPLUS" [online prescription renewal services for members; maintaining personal prescription drug history and pharmacy benefit plan information, files, and databases online for members; and providing online health and health plan information to members]	"MY PHARMACY" [retail pharmacy services featuring pharmaceuticals, health care products, and home medical equipment]	Powers	No

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12-2	EX	76479526	John Calvani	Hanak* Hairston Chapman	2(d)	Refusal Affirmed		design comprising a graphic representation of a pair of sunglasses [men's and women's clothing, namely, shirts, sweaters, jackets, coats, t-shirts, baseball caps, sweat shirts, sweat pants, shorts, socks and footwear]	design comprising a graphic representation of a pair of sunglasses [clothing, namely, hats, shirts, caps, sweat shirts, and sports uniforms]	Miller	No
12-3	EX	78202126	Forsyth of Canada, Inc.	Seeherman Quinn* Rogers	2(d)	Refusal Reversed as to both cited registrations		"EXPAND-A-COLLAR" (in stylized form) [men's shirts]	2 cited registrations, owned by different entities: "EXPAND-A-WAIST" [women's apparel, namely, pants] and "EXPAND-A-BAND" [hats]	Berk	No
12-3	EX	76006037	Fashion Group S.N.C. di Bertoncello Maria Luisa & Michela & C.	Walters Chapman Rogers*	2(e)(3)	Refusal Affirmed		"NO-L-ITA NORTH LITTLE ITALY" (in stylized form) [sports jackets, trousers, jeans, shorts, skirts, track suits, sweaters, shirts, t-shirts, cardigans, dressing gowns, night gowns, pajamas, petticoats, socks, stockings, tights, gloves, scarves, foulards, neckerchiefs, belts, waistcoats, bathing suits, hats, caps, shoes, boots, sandals, slippers]		Gold	No
12-3	EX	78263738	VRBIA, Inc.	Quinn* Hairston Bottorff	2(e)(1)	Refusal Affirmed		"NOT MADE IN FRANCE" [t-shirts, hats, armbands, headbands, socks, jackets and scarves]		Lincoski	No

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12-3	EX	78154141	Anselmi S.R.L.	Seeherman Chapman* Rogers	2(d)	Refusal Affirmed		"ANSELM I" [wines, sparkling wines, brandy, grappa, liqueurs, rum, vodka, whiskey, alcoholic fruit distillates, alcoholic grape distillates, wine distillates]	"PÈRE ANSELME" (in stylized lettering) [wines]	Oslick	No

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